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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,450	07/21/2003	Hideki Saga	29284/592	5239
23838	7590	03/20/2006	EXAMINER	
KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005			CHU, KIM KWOK	
			ART UNIT	PAPER NUMBER
			2653	

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,450

Applicant(s)

SAGA, HIDEKI

Examiner

Kim-Kwok CHU

Art Unit

2653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed on 12/21/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 5-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5-7 and 9-13 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/21/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/583,480.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Objections

1. Claims 1, 5, 6, 7, 9, 10 and 12 are objected to because of the following informalities:

(a) in claim 1, line 20, the term "an evaluation result" should be changed to --of an evaluation result--;

(b) in claim 5, line 2, the term "a trackingoffset" should be changed to --a tracking offset--;

(c) in claim 5, line 3, the term "position control" has an unrecognizable character--;

(d) in claims 6 and 7, they are identical claims;

(e) in claim 9, line 2, the term "test" has an unrecognizable character--;

(f) in claim 10, line 2, the term "the" has an unrecognizable character--; and

(g) in claim 12, line 3, the term "step" has an unrecognizable character--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

3. Claims 1, 5-7 and 9-13 are rejected under 35 U.S.C. § 102(b) as being anticipated by Osakabe et al. (U.S. Patent 5,872,763).

Osakabe teaches an information recording apparatus for recording information on a recording medium having all the elements and means as recited in claims 1, 5-7, 9, 10 and 11. For example, Osakabe teaches the following:

(a) as in claim 1, the information recording apparatus for recording information on a recording medium 28 by forming marks different in a physical property from non-recorded portions (test areas) with energy injected into the recording medium 28 (Fig. 1; different size of pits are formed);

(b) as in claim 1, energy generation means (laser in optical head 24) which generates recording energy (Fig. 1);

(c) as in claim 1, a position control means 50 which controls an injection position of the recording energy

output from the energy generation means (laser in optical head 24) for the recording medium 28 (Fig. 1; column 5, lines 13-20);

(d) as in claim 1, a drive means 22 which drives the energy generation means (Fig. 1; laser source is driven by the recording/reproducing section 22; column 3, lines 40-45);

(e) as in claim 1, a switching means 10 which switches information based on user's data or test information to be supplied to the drive means (Fig. 4; modulating means such as light/magnetic field changed according to an input signal is an inherent feature);

(f) as in claim 1, a reading means 22 which reads marks recorded on the recording medium 28 (Fig. 1; signals are read by the recording/reproducing section 22; column 3, lines 40-45);

(g) as in claim 1, an evaluation means 36 which evaluates a reproduced signal obtained from the reading means 22 (Fig. 1; column 3, lines 52-59);

(h) as in claim 1, a recording condition control means 38 which controls a recording condition of an evaluation result obtained from the evaluation means 36 (Fig. 1; column 3, lines 61-65);

(i) as in claim 1, the recording condition is set in a case of reproducing (read) the marks having the test information (Figs. 1 and 9; signal is reproduced);

(j) as in claim 1, a control operation of the position control means is unchanged in a first reproduction in comparison with a time when the test information is recorded (Figs. 1 and 9; test recording signals are recorded and reproduced);

(k) as in claim 1, a control operation of the position control means is changed in a second reproduction in comparison with a time when the test information is recorded (Figs. 1, 9 and 10; column 6, lines 32-36; test recording is repeated with respect to erasing power P_e and bottom power P_{bo});

(l) as in claim 1, the recording condition is controlled in accordance with values of a signal amplitude (light intensity) in the first reproduction and a signal amplitude in the second reproduction (Figs. 1, 9 and 10; light intensity is determined after repeated test recording; column 6, lines 58-67);

(m) as in claim 5, the changed content of the control operation for the position control means is either a stop or a start of a tracking offset amount, of a tracking polarity, or of a tracking operation, carried out

by the position control means (Figs. 1, 9 and 10; power intensity setting of different test recording signals are finished in different tracking stop/start operations such as read/write operations); and

(n) as in claims 6 and 7, the changed content of the control operation for the position control means is a target track (address) indicated by the position control means (Fig. 1; inherent feature where each signal written on the medium has a recording address);

(o) as in claim 9, in a case where the test information is supplied to the drive means and recorded on the recording medium, the test information inconsistent with a conversion rule (demodulation) of a conversion means is used (Fig. 1; inherent feature where test information is not user data which requires error correction and modulation);

(p) as in claim 10, in a case where the test information is supplied to the drive means and recorded on the recording medium, pieces of the test information, each of which is different, are recorded on a plurality of tracks/locations (Figs. 1; test pattern generated signals are recorded in the power calibration area); and

(q) as in claim 11, the test information containing a longer run-length than a run-length rule of the conversion

means is used as the test information (column 5, lines 61-67; the test recording signals 18 are repetitively recorded at a 588 channel-bit frequency with a 11T-11T signal placed at the beginning).

4. Method claims 12 and 13 are drawn to the method of using the corresponding apparatus claimed in claims 1 and

5. Therefore method claims 12 and 13 correspond to apparatus claims 1 and 5 and are rejected for the same reasons of anticipation as used above.

Allowable Subject Matter

5. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is an Examiner's statement of reasons for the indication of allowable subject matter:

As in claim 8, the prior art of record fails to teach or fairly suggest an information recording apparatus having the following feature:

(a) a vibration means which vibrates the reading means in a direction perpendicular to a main scanning direction on the recording medium.

The features indicated above, in combination with the other elements of the claims, are not anticipated by, nor made obvious over, the prior art of record.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fuji et al. (6,125,085) is pertinent because Fuji teaches an information apparatus having a test pattern for optimizing the light quality.

8. *Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).*

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

(571) 273-8300 (for formal communications intended
for entry. Or:

(571) 273-7585, (for informal or draft
communications, please label "PROPOSED" or "DRAFT")

Any inquiry of a general nature or relating to the
status of this application should be directed USPTO Contact
Center (703) 308-4357; Electronic Business Center (703)
305-3028.

Any inquiry concerning this communication or earlier
communications from the examiner should be directed to Kim
CHU whose telephone number is (571) 272-7585 between 9:30
am to 6:00 pm, Monday to Friday.

Information regarding the status of an application may
be obtained from the Patent Application Information
Retrieval (PAIR) system. Status information for published
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Center (EBC) at 866-217-9197 (toll-free).

Kim-Kwok CHU
Examiner AU2653

ke 3/10/06
March 10, 2006
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William Kozul
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SUPERVISOR, PATENT EXAMINER
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MARCH 10 2006